IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.6150 OF 2005.
IN
FIRST APPEAL ST.NO. 28300 OF 2005.

Brihanmumbai Mahapalika & anr. ... Applicants.
Versus.
Sanghi Oxygen (Bombay)Pvt.Ltd. ... Respondent.

Shri J.J.Xavier for the Applicants.

Shri R.M.Nakhwa for the Respondents.

CORAM : ABHAY S.OKA, J.

DATED : 3rd August, 2006.

P.C.:

1. Heard the learned Advocates appearing for the parties. Shri Nakhwa appearing for the Respondent has strongly opposed this application by pointing out that the delay is not of 244 days as stated by the Applicants, but the delay is in fact of more than 300 days. He submitted that the grounds taken in the application are vague and the affidavit filed in the Civil Application is not in conformity with the Appellate Side Rules. He has placed reliance on a judgment of a learned Single Judge of this Court wherein application for condonation of delay has been rejected.

2. Every application for condonation of delay has to be considered in the light of the facts of the individual case. It is well settled law that a liberal approach is contemplated while dealing with the application for condonation of delay. Large number of Appeals in the same group have been already admitted by

this Court. After having perused the application and the affidavit-in-reply, I find that a case for condonation of delay is made out. However, as delay is on the higher side, the Respondent will have to be compensated by ordering payment of costs. Rule is made absolute in terms of prayer clause (a) subject to condition of the Applicants paying costs of Rs.7500/- to the Respondent within a period of four weeks from today.

Judge.